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ATTORNEY GENERAL'S OFFICE
Corrections Division

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Mar 21, 2018

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SUNDRON L. MILLER,

Plaintiff,

v.

YAKIMA COUNTY DEPARTMENT
OF CORRECTIONS,

Defendant.

NO: 1:17-CV-3154-RMP

ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING COMPLAINT WITH
PREJUDICE

1915(g)

Before the Court is Magistrate Judge Rodgers' Report and Recommendation, ECF No. 9, to dismiss the complaint with prejudice for failure to state a claim upon which relief may be granted and to count the dismissal as a "strike" under 28 U.S.C. § 1915(g). Plaintiff has not kept the Court informed of his current address and a copy of the Report and Recommendation, mailed to Plaintiff at the Yakima County Jail, was returned as undeliverable on February 22, 2018. See ECF No. 11. Plaintiff is proceeding *in forma pauperis*; Defendants have not been served.

ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING COMPLAINT WITH PREJUDICE -- 1

1 Magistrate Judge Rodgers found that Plaintiff had failed to name a person
2 amenable to suit under 42 U.S.C. § 1983, and Plaintiff did not present facts
3 supporting a municipal liability claim under *Monell v. Dept. of Social Services*, 436
4 U.S. 658 (1978). See *United States v. Kama*, 394 F.3d 1236, 1239 (9th Cir. 2005)
5 (Ferguson, J., concurring) (municipal police departments and bureaus are generally
6 not considered “persons” within the meaning of section 1983). There being no
7 objections, **IT IS HEREBY ORDERED** that the Report and Recommendation,
8 ECF No. 9, is **ADOPTED** in its entirety, and the complaint, ECF No. 7, is
9 **DISMISSED with prejudice** for failure to state a claim upon which relief may be
10 granted, 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).

11 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who
12 brings three or more civil actions or appeals which are dismissed as frivolous,
13 malicious, or for failure to state a claim will be precluded from bringing any other
14 civil action or appeal *in forma pauperis* “unless the prisoner is under imminent
15 danger of serious physical injury.” 28 U.S.C. § 1915(g). **Plaintiff is advised to**
16 **read the statutory provisions under 28 U.S.C. § 1915. This dismissal of**
17 **Plaintiff’s complaint may count as one of the three dismissals allowed by 28**
18 **U.S.C. § 1915(g) and may adversely affect his ability to file future claims.**

19 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
20 enter Judgment, forward copies to Plaintiff at his last known address, and **CLOSE**
21 the file. The Clerk of Court is further directed to forward a copy of this Order to

1 the Office of the Attorney General of Washington, Corrections Division. The
2 Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this Order
3 would not be taken in good faith and would lack any arguable basis in law or fact.

4 **DATED** March 21, 2018.

5
6 *s/ Rosanna Malouf Peterson*
7 ROSANNA MALOUF PETERSON
8 United States District Judge
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NOTE TO PUBLIC ACCESS USERS There is no charge for viewing opinions.

Eastern District of Washington

U.S. District Court

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Corrections Division

Notice of Electronic Filing

The following transaction was entered on 3/21/2018 at 2:41 PM PDT and filed on 3/21/2018

Case Name: Miller v. Yakima County Department of Corrections

Case Number: 1:17-cv-03154-RMP

Filer:

WARNING: CASE CLOSED on 03/21/2018

Document Number: 12

Docket Text:

ORDER ADOPTING [9] REPORT AND RECOMMENDATION AND DISMISSING COMPLAINT WITH PREJUDICE - Plaintiff Warned Re 28:USC 1915(g) - The court further certifies that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. 2253(c); Fed. R. App. P. 22(b) (cc: Sundron L. Miller via first class mail). Signed by Judge Rosanna Malouf Peterson. (PL, Case Administrator)

1:17-cv-03154-RMP Notice has been electronically mailed to:

1:17-cv-03154-RMP Notice has been delivered by other means to:

Sundron L Miller
150645
Yakima County Jail
111 N Front Street 4-E #2
Yakima, WA 98902

The following document(s) are associated with this transaction:

Document description:Main Document

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[STAMP dcecfStamp_ID=1069357611 [Date=3/21/2018] [FileNumber=3058449-0] [2b2480087193d610ddd97c085aa6092efbb9dd479202039da8017d0f1b3f1c78fd9a378c9070fad8bf89cb8710d3a2a837e030b42ced52742974ee566f1ba50]]